

Approved: August 25, 2011
(Date)

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:36 A.M. on February 14, 2011, in Room 548-S of the Capitol.

All members were present, except: Senators Bruce and Donovan, who were excused.

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Helen Pedigo, Special Counsel to the Chief Justice of the Kansas Supreme Court
Kyle Smith, Office of the Attorney General
Todd Hiatt, Office of the Shawnee County District Attorney
Christopher Joseph, Kansas Association of Criminal Defense Lawyers
Scott Schultz, Office of the Securities Commissioner, Associate General Counsel

Others attending:

See attached list.

The Chairman opened the hearings on **SB 46 -- Amending civil procedure code general provisions relating to electronic filing.**

Jason Thompson, Staff Revisor, reviewed the bill.

Helen Pedigo testified in support of **SB 46 (Attachment 1)**. She stated that the bill clarifies that the Supreme Court would issue an order stating when records and information would be maintained in a computer information storage and retrieval system. The bill also deletes the requirement that the court clerk keep papers that are filed in a wrapper or folder and to initial time and date stamps. She stated that the bill would facilitate the Judicial Branch's movement toward e-filing, which would allow easier access to the courts. E-filing will increase efficiency, allow around-the-clock web access and has the potential to provide savings to anyone who files documents with a Kansas court.

No testimony in opposition to **SB 46** was offered.

The Chairman called the committee's attention to the fiscal note for **SB 46**.

The Chairman closed the hearings on **SB 46**.

The Chairman opened the hearings on **SB 73 – Amending criminal discovery statute to prohibit release of child pornography evidence to the defense.**

Jason Thompson, Staff Revisor, reviewed the bill.

Todd Hiatt testified in support of **SB 73 (Attachment 2)**. He stated the bill would prohibit the reproduction of pornographic images of children during criminal discovery. The bill would eliminate the inconsistency that exists between the Kansas criminal discovery law and the federal discovery law.

Senator King asked Mr. Hiatt if he would support a provision that would require local law enforcement to follow the protocols in the Adam Walsh Act relating to the reproduction and accessibility of pornographic images of children.

Mr. Hiatt said he would but that is not necessary.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:36 A.M. on February 14, 2011, in Room 548-S of the Capitol.

Kyle Smith, presented testimony in support of **SB 73** on behalf of Attorney General Derek Schmidt (Attachments 3 and 4). He stated the bill was proposed to strengthen the state's ability to combat sexual exploitation of children. He noted that the committee had recommended legislation prohibiting reproduction of pornographic images of children during civil discovery.

Mr. Smith suggested that the bill be amended, as follows: On page 4, in line 1, before "law enforcement facility" by inserting, "appropriately secured"

Christopher Joseph testified in opposition to **SB 73** (Attachment 5). He stated that the proposed change in law would result in high costs. He stated that expert testimony is necessary to defend a child pornography case the, cost of which is approximately \$10,000. The state will have to pay those costs if the defendant is indigent.

Senator Kelly raised concerns with the fiscal note, which stated there was no cost to the judiciary. She wondered if the State Board of Indigent Defenses Services had been contacted in the preparation of the fiscal note.

Written testimony in support to **SB 73** was submitted by Patrick Vogelsberg, Kansas County and District Attorneys Association (Attachment 6).

The Chairman opened the hearings on **SB 74 -- Civil procedure; forfeiture; electronic solicitation; sexual exploitation.**

Kyle Smith, presented testimony in support of **SB 74** on behalf of Attorney General Derek Schmidt (Attachments 7 and 8). He stated that the bill would add convictions for certain child sex crimes to the Kansas forfeiture statute.

Scott Schultz testified in support of **SB 74** (Attachment 9). He stated the bill would provide law enforcement necessary tools to better deter child sex crimes. Mr. Schultz proposed an amendment, which would add violations of the Kansas Uniform Securities Act to the list of covered forfeiture offenses.

Written testimony in support of **SB 74** was submitted by: Ed Klumpp, KS Assn. of Chiefs of Police, KS Sheriffs Assn., KS Peace Officers Assn. (Attachment 10) and Patrick Vogelsberg, Kansas County and District Attorneys Association (Attachment 11).

No testimony in opposition to **SB 74** was offered.

The Chairman called the committee's attention to the fiscal note for **SB 74**.

The Chairman closed the hearings on **SB 74**.

Committee Action:

The Chairman turned the committee's attention to **SB 46 -- Amending civil procedure code general provisions relating to electronic filing.**

Senator King moved, Senator Lynn seconded, that SB 46 be passed. The motion was adopted.

The Chairman turned the committee's attention to **SB 52 -- Concerning grandparent's custody of children.**

Senator Vratil moved, Senator Schodorf seconded, that SB 52 be passed. The motion was adopted.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for February 15, 2011.